

## STATE OF LOUISIANA

### DEPARTMENT OF ENVIRONMENTAL QUALITY

<b>IN THE MATTER OF:</b>  <b>INDUSTRIAL ZEOLITE (US) LIMITED</b>  <b>AI # 1302</b>  <b>PROCEEDINGS UNDER THE LOUISIANA</b> <b>ENVIRONMENTAL QUALITY ACT</b> <b>LA. R.S. 30:2001, <u>ET SEQ.</u></b>	* * * * * * * * *	<b>Settlement Tracking No.</b> <b>SA-MM-06-0036</b>  <b>Enforcement Tracking No.</b> <b>MM-P-05-0040</b>  <b>Docket No. 2006-1247-EQ</b>
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### SETTLEMENT

The following Settlement is hereby agreed to between Industrial Zeolite (US) Limited ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

#### I

Respondent is a corporation who owns and/or operates a soap additive production facility located at 50 Sugar Mill Road in Lecompte, Rapides Parish, Louisiana ("the Facility").

#### II

On January 3, 2006, the Department issued a Penalty Assessment, Enforcement No. MM-P-05-0040, in the amount of One Hundred Thirty-Seven Thousand, Five Hundred Fourteen and 54/100 Dollars (\$137,514.54) to Respondent, which was based upon the following findings of fact:

The Respondent operates a facility that produces a soap additive per contract for Proctor & Gamble located at 50 Sugar Mill Road in Lecompte, Rapides Parish, Louisiana. The facility received EPA identification number LAR000048371 on December 12, 2002, and is reporting as a small quantity generator of hazardous waste. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) general permit LAG480000 on June 19, 2002, and specifically was assigned permit number LAG480169. This permit expired on July 31, 2006. LPDES general permit LAG480169 authorizes the Respondent to discharge certain qualities and quantities of treated sanitary wastewater, loading area washdown water, hydrostatic testing wastewater, truck washwater, boiler/cooling tower blowdown, and industrial stormwater runoff into an on-site retention pond then into local drainage, thence into Calahan Bayou, waters of the state.

On January 9, and January 15, 2003, representatives of the Department performed inspections of the site and noted the following:

- A. The Respondent disposed of hazardous waste without having interim status or a standard permit in violation of LAC 33:V.303.B. Specifically, on or about December 26, 2002, the Respondent caused and/or allowed the release of 84,000 gallons of wastewater containing approximately 5,606 pounds of sodium hydroxide and approximately 2,000 pounds of aluminosilicate and having a pH of 13.3 from Tank 62 to a drainage ditch.
- B. The Respondent failed to notify the hotline by telephone immediately after learning of an unauthorized discharge from the treatment pond to an unnamed ditch that caused an emergency condition, in violation of LAC 33:I.3915.A.1.
- C. The Respondent did cause or allow an adverse impact to aquatic biota in local drainage, waters of the state, on or about December 31, 2002. A count revealed approximately 35 dead and/or dying fish in the waterway downstream from the Respondent's outfall. The destruction of aquatic biota is in violation of LPDES permit LAG480169 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3),

LAC 33:IX.501.A, LAC 33:IX.1113.B.1.d, LAC 33:IX.1113.B.5, and LAC 33:IX.2701.A.

On April 7, 2003, representatives of the Department performed an inspection of the site and noted the following:

The Respondent did cause or allow an unauthorized discharge of inadequately treated wastewater into waters of the state. Specifically, approximately 1,000 gallons of wastewater containing 66 pounds of sodium hydroxide were released into waters of the state. Field measurements indicated that the wastewater contained a pH value of between 12.2 to 12.4 standards units. The maximum allowable range is 9.0 standard units. The unauthorized discharge of inadequately treated wastewater is in violation of LPDES permit LAG480169 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(1)(a), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

On October 13, 2004, an Amended Notice of Potential Penalty (ANOPP), Enforcement Tracking No. MM-PP-03-0021A, was issued to the Respondent.

### III

In response to the Penalty Assessment, Enforcement No. MM-P-05-0040, Respondent made a timely request for a hearing.

### IV

On July 28, 2006, a hearing was held by the Louisiana Division of Administrative Law on the Peremptory Exception of Res Judicata filed by the Respondent. The Department agreed that the Peremptory Exception of Res Judicata as to the charge of failure "...to notify the hotline immediately after learning of an unauthorized discharge from the treatment pond to an unnamed

ditch that caused an emergency condition, in violation of LAC 33:I.3915.A.1.” was well founded in both fact and law. The parties agreed that the violation cited in Findings of Fact, Paragraph B above be dismissed.

On August 4, 2006, the Division of Administrative Law ordered that the Respondent’s Peremptory Exception of Res Judicata be sustained and the violation cited in Finding of Fact, Paragraph B above was dismissed.

#### V

Respondent maintains that the discharge noted by LDEQ representatives during the April 7, 2003, inspection did not reach waters of the state but was allowed off Respondent’s premises. Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

#### VI

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHTY-FOUR THOUSAND AND NO/100 DOLLARS (\$84,000.00) of which Three Thousand Fourteen and 54/100 Dollars (\$3,014.54) represents DEQ’s enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

#### VII

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in

connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

#### VIII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

#### IX

*This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.*

#### X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Rapides Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted

a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## XI

Payment of the amount described in Paragraph VI is to be made as follows: one-half (\$42,000.00) of the total amount due shall be paid within ten (10) days from notice of the Secretary's final signature. The remaining one-half (\$42,000.00) shall be paid within ninety (90) days of the first payment. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Darryl Serio, Office of Management and Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

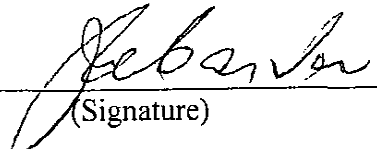
## XII

In consideration of the above, any and all claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

## XIII

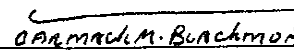
Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

**INDUSTRIAL ZEOLITE (US) LIMITED**

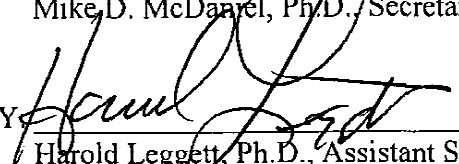
BY:   
 (Signature)  
JOHN W. CARVER  
 (Printed)

TITLE: SECRETARY, INDUSTRIAL ZEOLITE (US) LIMITED

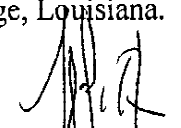
THUS DONE AND SIGNED in duplicate original before me this 24<sup>th</sup> day of  
DECEMBER, 20 06, at BATON ROUGE, LOUISIANA.

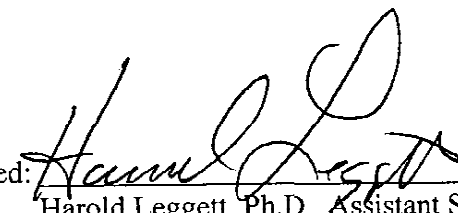
  
 NOTARY PUBLIC (ID # 03106)  
LOUISIANA  
CARMACH M. BLACKMON  
 (Printed)

**LOUISIANA DEPARTMENT OF  
 ENVIRONMENTAL QUALITY**  
 Mike D. McDaniel, Ph.D., Secretary

BY:   
 Harold Leggett, Ph.D., Assistant Secretary  
 Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 30<sup>th</sup> day of  
January, 20 07, at Baton Rouge, Louisiana.

  
 NOTARY PUBLIC (ID # 20456)  
Ted R. Bryner, II  
 (Printed)

Approved:   
 Harold Leggett, Ph.D., Assistant Secretary